

Amendment
Serial No. 10/662,323
Attorney Docket No. 031013

REMARKS

Claims 1-7 are pending in the present application and are rejected. Claim 1 is herein amended. No new matter has been added.

Applicant's Response to Claim Rejections under 35 U.S.C. §103

Claims 1-7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Eryurek et al. (U.S. Patent No. 6,839,660).

It is the position of the Office Action that Eryurek discloses the invention as claimed, with the exception of storing the diagnosis results generated by the diagnosis software on the database server. The Office Action states that it would have been obvious to include such a storing.

Eryurek is directed at an on-line rotating equipment monitor device. The device includes a process plant 10 and a service computer 74 at a service provider site, connected by an internet link 76. Within process plant 10, rotating equipment monitoring device 40 is connected to a network 58 by a communication interface 60. The rotating equipment monitoring device 40 monitors the rotating equipment 42 via a plurality of sensors 46. Each sensor 46 is connected to the diagnostic unit 44 of the rotating equipment monitoring device 40 by communication lines 48. The diagnostic unit 44 includes a processor 52, a memory 50, and a diagnostic routine 54 within the memory 50.

The diagnostic unit 44 stores received data as well as processed data in the memory 50. Column 5, lines 29-31. The processor 52 may execute diagnostic routine(s) 54 based on the

collected data. Column 5, lines 31-34. Based on the result of the diagnostic routines, the diagnostic unit 44 sends information to the DCS controller 20 or the host computers 24 and 26, in order to notify plant personnel. Column 5, lines 61-65. Furthermore, the raw data collected from the sensors 46 or the processed data stored in diagnostic unit 44 may be sent to service computer 74. Column 6, lines 15-19. This can be either via downloading to a handheld device or by an internet network. Column 6, lines 19-27. The service computer 74 may then process the data to verify the processing of the diagnostic unit 44. Or, the service computer may then process the data using additional diagnostic routines. Column 6, lines 27-34.

Thus, Eryurek discloses the following embodiments:

1. Receipt and storage of raw data by diagnostic unit 44; processing of raw data according to diagnostic routines 54 in diagnostic unit 44; and storing of processed data in memory 50 of diagnostic unit 44.
2. Receipt and storage of raw data by diagnostic unit 44; processing of raw data according to diagnostic routines 54 in diagnostic unit 44; storing of processed data in memory 50 of diagnostic unit 44; sending processed data to service computer 74; processing of raw data and/or re-processing of processed data in service computer 74.
3. Receipt and storage of raw data by diagnostic unit 44; sending raw data to service computer 74; processing of raw data in service computer 74.

Memory 50 of diagnostic unit 44 only stores processed data which was processed by processor 52 of diagnostic unit 44. Diagnostic unit 44 does not store processed data which was processed in service computer 74. In other words, Eryurek does not disclose sending processed data from service computer 74 to diagnostic unit 44.

Accordingly, Applicant herein amends the claims to include a negative limitation that the database server does not include another diagnosis execution unit. Thus, claim 1 requires that the diagnosis execution unit is located at the client side, not the server side. Accordingly, the

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diagnostic unit 44 cannot be analogous to the database service of claim 1. Eryurek only discloses one embodiment which is consistent with the diagnostic unit 44 not including a diagnosis execution unit. Such an embodiment would include:

Receipt and storage of raw data by diagnostic unit 44; sending raw data to service computer 74; processing of raw data in service computer 74.

However, Eryurek does not disclose or suggest that processed data from service computer 74 is stored in the diagnostic unit 44. Although Eryurek discloses distributing “verification or other information” to host computers 24 (Column 6, lines 37-41), it does not disclose or suggest *sending processed data to the diagnostic unit 44*, and storing processed data therein.

A negative limitation to exclude a diagnosis execution unit in the database server requires that the diagnosis results are received by the server from the diagnosis execution unit in client, and are stored in the server. Therefore, Applicant respectfully submits that present claim 1 is patentable over Eryurek. Favorable reconsideration is respectfully requested.

With regard to claim 2, Applicant first respectfully submits that claim 2 is patentable at least due to its dependency on claim 1, which Applicant submits is patentable for at least the reasons discussed above. Further, the Office Action states that Eryurek discloses a common interface to execute the diagnostic software. The Office Action cites column 6, lines 35-50 to show this. This passage merely describes the types of data which can be collected, such as misalignment of equipment, low oil, rise in temperature, number of rotations, etc. Applicant respectfully submits that neither this nor any other passage of Eryurek discloses or suggests that “a common interface is provided for the programs of the diagnostic software in the diagnostic

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execution unit.” Accordingly, Applicant respectfully submits that Eryurek does not disclose or suggest the device as recited by claim 2. Favorable reconsideration is respectfully requested.

With regard to claims 4-7, Applicant first respectfully submits that these claims are patentable at least due to their dependency on claim 1, which Applicant submits is patentable for at least the reasons discussed above. Additionally, the Office Action states that Official Notice is taken that both the concepts and advantages of providing for direct user input as a means for obtaining diagnostic data is well known and expected in the art. With respect to claims 5 and 6, the Office Action states that Official Notice is taken that both the concepts and advantages of providing for monitoring the diagnostic software, as well as providing screens specific to routines as well as common to all routines is well known and expected in the art.

However, Official Notice unsupported by documentary evidence should only be taken where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be “capable of such instant and unquestionable demonstration as to defy dispute” (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 USPQ 6 (CCPA 1961)).

That is, it is not be appropriate for the Office Action to take Official Notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be

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supported by citation to some reference work recognized as standard in the pertinent art. *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21.

Accordingly, Applicant respectfully traverses the Office Action's assertion of Official Notice with regard to the features of claims 4-6. Applicant respectfully demands that the Office Action provide documentary evidence in the next Office action, if the rejection is to be maintained, to support the holding of Official Notice concerning the claimed features.


For at least the foregoing reasons, the claimed invention distinguishes over the cited art and defines patentable subject matter. Favorable reconsideration is earnestly solicited.

Should the Examiner deem that any further action by applicants would be desirable to place the application in condition for allowance, the Examiner is encouraged to telephone applicants' undersigned attorney.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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